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Dkt. No. 2271/60220

REMARKS

The application has been reviewed in light of the Office Action dated May 10, 2007. Claims 3-12 were pending, with claims 1 and 2 having previously been canceled, without prejudice or disclaimer. The Office Action indicates that claims 3, 4 and 8-12 have been allowed. By this Amendment, new claims 13-16 have been added. Accordingly, claims 5-7 and 13-16 are presented for reconsideration, with claim 5 and 14 being in independent form.

Claims 5-7 were rejected under 35 U.S.C. § 102(e) as purportedly anticipated by U.S. Patent No. 6,075,920 to Kawamura et al.

Claim 5 is directed to a subcode-data generating circuit which generates subcode data including subcode component data. The subcode-data generating circuit includes a toggle generating portion which independently generates toggling data, in which a state of the toggling data alternates between a high state and a low state at a predetermined period. In each instance of the toggling data, a time duration between a first change of state from the high state to the low state and a next change of state from the low state to the high state is a predetermined regular interval.. Independent claim 5 addresses these features, as well as additional features.

Kawamura does not teach or suggest the subject matter of claim 5 of the present application.

The Office Action (page 2) states as follows regarding the wherein clause ("wherein in each instance of the toggling data, a time duration between a first change of state from the high state to the low state and a next change of state from the low state to the high state is a predetermined regular interval") in claim 5:

"No Patentable weight is attributable to the wherein clause (last paragraph) that the time interval between high and low states is predetermined and regular, since

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this pertains to the intended usage of the circuit rather than defining physical features of the circuit."

Applicant respectfully submits that the quoted statement from the Office Action mischaracterizes the wherein clause of claim 5, and the wherein clause of claim 5 is a recitation of intended use.

Intended use refers to features that are implemented only through a specific use of an apparatus, but not in other uses of the apparatus.

Here, the feature that "in each instance of the toggling data, a time duration between a first change of state from the high state to the low state and a next change of state from the low state to the high state is a predetermined regular interval" is always present in the subcode-data generating circuit of claim 5, regardless of the nature or function of the system in which the subcode-data generating circuit is used.

Such feature is not present in the apparatus of Kawamura, as the Office Action implicitly acknowledges since the Office Action does not indicate that such features can be found in Kawamura.

Further, the Office Action (page 2) states as follows regarding circuits proposed by Kawamura for generating subcodes:

"The subcode can be said to "toggle" in the sense that it is created by changing a field of bits to a different field of bits."

The change from a field of bits to another field of bits of course can involve some change of state of specific bits. However, such change is pseudo-random and in any event does not occur at a pre-determined period.

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However, the Office Action does not state that Kawamura teaches or suggests (and fails to specify where one can find teaching or suggestion in Kawamura of) "a toggle generating portion which independently generates toggling data, the state of said toggling data alternating between a high state and a low state at a predetermined period", as provided by the subject matter of claim 5.

Likewise, the cited art fails to teach or suggest "a toggle generating portion which independently generates toggling data, the state of said toggling data alternating between a high state and a low state at a predetermined period, a time duration between a first change of state from the high state to the low state and a next change of state from the low state to the high state, in each instance of the toggling data, being a predetermined regular interval", as provided by the subject matter of new independent claim 14.

Accordingly, for at least the above-stated reasons, Applicant respectfully submits that independent claims 5 and 14, and the claims depending therefrom, are patentable over the cited art.

In view of the remarks hereinabove, Applicant submits that the application is now in condition for allowance. Accordingly, Applicant earnestly solicits the allowance of the application.

If a petition for an extension of time is required to make this response timely, this paper should be considered to be such a petition. The Patent Office is hereby authorized to charge any fees that may be required in connection with this amendment and to credit any overpayment to our Deposit Account No. 03-3125.

If a telephone interview could advance the prosecution of this application, the Examiner

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is respectfully requested to call the undersigned attorney.

Respectfully submitted,



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